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6	BIGIBLET LAND REGLIC		
7			
8	IN THE UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
10			
11	UNITED STATES OF AMERICA,	)	Case No. 2:23-CR-00177-TLN
12	Plaintiff,	)	EX PARTE APPLICATION TO SEAI REQUEST AND ORDER
13	V.	)	REQUEST AND ORDER
14	BRADLEY EARL REGER,	)	
15	Defendant.	)	
16			
- 1			

PLEASE TAKE NOTICE that defendant Bradley Earl Reger moves the Court for leave to file his application for the appointment of second counsel and a second investigator *ex parte* and under seal.

The application is made upon the grounds that good cause exists to file the application and accompanying documents under seal. Courts have found ex parte requests for subpoenas permissible. *U.S. v. Kravetz*, 709 F.3d 47, 53 (1st Cir. 2013). A defendant should be permitted to make an *ex parte* application for pretrial production of documents such as where "identification of the source of evidence potentially imperils the source or integrity of evidence; or where notice of subpoena duces tecum would compromise defense counsel's trial strategy; or where a constitutional interest of a defendant is implicated." *U.S. v. Sellers*, 275 F.R.D. 620, 624-625 (D. Nev. 2011). This Court has the authority to file documents under seal pursuant to Federal Rule of Criminal Procedure

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49.1(d). This application contains information that is protected by the attorney-client privilege and the work product privilege, including defense trial strategy. Failure to seal the application would impinge upon Mr. Reger's constitutional rights because he would not be able to provide the same frank, detailed information in a public filing.

Specifically, through this application, Mr. Refer is seeking the appointment of an additional lawyer and investigator. If granted opposing counsel will certainly become aware a second lawyer was appointed. However, the declaration in support of the request contains significant work product and detailed information about defense strategy to which the government is not entitled.

There is good cause for this court to use its authority under Federal Rule of Criminal Procedure 49.1(d) to file the 17(c) application and accompanying documents under seal.

Dated: September 6, 2023 Respectfully submitted,

By <u>/s/ Kresta Nora Daly</u>

KRESTA NORA DALY

Attorneys for Bradley Earl Reger

## **ORDER**

Good cause appearing, the Court hereby orders the application for a second attorney and investigator and accompanying documents sealed.

Dated: September 7, 2023

Troy L. Nunley

United States District Judge